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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,321	12/28/2000	Robert W. Praus II	30156-1001	1201

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EXAMINER
MAI, HUY KIM

ART UNIT	PAPER NUMBER
2873	

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/753,321	PRAUS ET AL.
	Examiner	Art Unit
	Huy K. Mai	2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 February 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .      6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of allowing means, sampling means, changing means, controlling means, performing and apodizing means as claimed in claims 5-10 and 16-21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-10 and 16-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitations in claims 5-10, 16-21 are indefinite because there is no means in the sensor to do the functions of allowing, sampling, changing, controlling, performing and apodizing as applicant claimed. How is the sensor allowing? How are the sensor sampling, changing, controlling, performing and apodizing?

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10 are rejected under 35 U.S.C. 102(a) as being anticipated by Schwider (DE 19800844).

The limitations in claims 1-10, 12-21 are shown in Schwider's Fig. 1. Schwider discloses a sensing device comprising a spatial light intensity modulator (LCD) and a lenslet array.

Regarding claims 5-10, the Schwider's device is inherently including means for providing the functions of allowing, sampling, changing, controlling, performing and apodizing as applicant does.

(NOTE: The applicant filed a declaration under 37 CFR 1.68 on Feb. 7, 2003 to traverse of the 102 rejection. It appears that the applicant intends to be the declaration/affidavit under 37 CFR 1.131 because the declaration under 37 CFR 1.68 cannot overcome the 102 rejection. The applicant may over come the rejection by indicating that the declaration was file by a mistake. It is a declaration/affidavit under 37 CFR 1,131.)

6. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by O'Meara et al (5,396,364) or Hutchin (4,518,854) or Terry et al (5,850,479) or Davis et al (5,166,508).

The limitations in claims 1-10 are shown in O'Meara et al's Figs. 1,2, column 4, line 20 through column 5, line 61. O'Meara et al discloses a device comprising a spatial light modulator 14 and lenslet array 16.

7. Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chen et al (5,472,759).

The limitations in claim 11 are shown in Chen et al's Figs. 4,6,11, columns 12-15.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwider or O'Meara et al or Hutchin or Terry et al or Davis et al.

Regarding method claims 12-21, the device including means for performing the functions, as claimed in the method claims, is unpatentable over Schwider, as discussed above. It would have been obvious at the time the method is made to a person having skill in this art to recognize the steps in the Schwider's device to perform the functions in the method claims as the applicant claimed in claims 12-21.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al.

The same argument apply similar to the present method since the reference Chen et al render obvious to the method according to the present claim 22.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy K. Mai whose telephone number is (703) 308-4874. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (703) 308-4883. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

HKM/  
March 4, 2003

*Huy Mai*  
Huy Mai  
Primary Examiner